



The Moral Tradition of American Constitutionalism

A Theological Interpretation

H. Jefferson Powell

The Moral Tradition Of American Constitutionalism A Theological Interpretation

Stanley Hauerwas



The Moral Tradition Of American Constitutionalism A Theological Interpretation:

The Moral Tradition of American Constitutionalism Jefferson Powell, 1993 Debate over the relationship between morality and the law characterizes the contemporary discussion of American constitutionalism Many theorists equate constitutionalism with the social morality of the American community others deny the existence of such a community and identify constitutionalism simply as the positive law of the state In this thoughtful and innovative book H Jefferson Powell presents a theological interpretation of the connection between constitutionalism and morality Powell locates the origins of constitutional law in the Enlightenment attempt to control the violence of the state by subjecting power to reason He then traces constitutionalism's rapid evolution into a tradition of rational inquiry centered in the practice of adjudication and embodied in a community of lawyers and judges Finally Powell shows how the tradition's nineteenth century presuppositions about the autonomy and rationality of constitutional argument have been undermined in the twentieth century within the constitutional community itself by the acceptance of a positivist and democratic understanding of law Powell shows how the continued willingness of the courts to resolve moral questions by invoking the Constitution has thrown the constitutional tradition into an epistemological crisis He critiques the work of many major theorists John Hart Ely Bruce Ackerman Frank Michaelman Rogers Smith Michael Perry Mark Tushnet Robert Bork Sanford Levinson who he claims persist in attempting to resolve the crisis by redefining constitutionalism as American social morality With reference to Alasdair MacIntyre's concepts of moral tradition and social practice and John Howard Yoder's theological account of the state Powell places his analysis of current constitutionalism within a contemporary Christian theological critique of Western liberalism With certain exceptions Powell concludes there are theological grounds in the United States to prefer decision making by elected officials to decision by constitutional courts Despite the controversial implications for judicial practice and legal argument Powell ultimately argues that the liberal tradition of rational inquiry American constitutionalism be renounced by the Christian community in favor of the majoritarian political process

Book Review Jim Chen, 1995 **American Constitutionalism as a Moral Tradition** H. Jefferson Powell, 1991 **God and Man in the Law** Robert Lowry Clinton, 1997 In a wide ranging study based on legal history political theory and philosophical ideas going all the way back to Plato and Roman law Robert Clinton challenges current faith in an activist judiciary Claiming that a human centered Constitution leads to government by reductive moral theory and illegitimate judicial review he advocates a return to traditional jurisprudence and a God centered Constitution grounded in English common law and its precedents

Historicizing "tradition" in the Study of Religion Steven Engler, Gregory Price Grieve, 2005 The series Religion and Society RS contributes to the exploration of religions as social systems both in Western and non Western societies in particular it examines religions in their differentiation from and intersection with other cultural systems such as art economy law and politics Due attention is given to paradigmatic case or comparative studies that exhibit a clear theoretical orientation with the empirical and historical data of religion and such

aspects of religion as ritual the religious imagination constructions of tradition iconography or media In addition the formation of religious communities their construction of identity and their relation to society and the wider public are key issues of this series

Christianity and Constitutionalism Nicholas Aroney, Ian Leigh, 2022 The first volume of its kind Christianity and Constitutionalism explores the contribution of Christianity to constitutional law and constitutionalism as viewed from the perspectives of history law and theology The authors examine a wide range of key figures including Augustine Thomas Aquinas Moses Martin Luther and Roger Williams offering innovative and thoughtful analyses of the relationship between religious thought and constitutional law Part I features contributions from historians and is focused on the historical influence of Christianity on constitutionalism recounting how the relationship between the Christian faith and fundamental ideas about law justice and government has evolved from era to era Part II offers the analyses of constitutional lawyers focusing on the normative implications of Christianity for particular themes or topics in constitutional law The chapters in this section orbit around several central doctrines and principles of this field including sovereignty the rule of law democracy the separation of powers human rights conscience and federalism evaluating them from a range of Christian perspectives Part III rounds out the study with theologians focused on particular Christian doctrines exploring their constructive and sometimes critical implications for constitutionalism As a whole Christianity and Constitutionalism breaks new ground by offering wide ranging interdisciplinary contributions to the study of the relationship between the Christian religion and constitutional law

Retrieving the Tradition and Renewing Evangelicalism Daniel H. Williams, 1999 A learned and uniquely constructive book that gently urges suspicious Christians to reclaim the patristic roots of their faith This is the first book of its kind meant to help Protestant Christians recognize the early church fathers as an essential part of their faith Writing primarily to the evangelical independent and free church communities who remain largely suspicious of church history and the relationship between Scripture and tradition D H Williams clearly explains why every branch of today's church owes its heritage to the doctrinal foundation laid by postapostolic Christianity Based on solid historical scholarship this volume shows that embracing the catholic roots of the faith will not lead to the loss of Protestant distinctiveness but is essential for preserving the Christian vision in our rapidly changing world

Deciphering the Genome of Constitutionalism Ran Hirschl, Yaniv Roznai, 2024-03-21 Offers an extensive theoretical comparative normative and empirical account of the concept of constitutional identity

The Language of Comparative Constitutional Law Erika Arban, Maartje De Visser, Jeong-In Yun, 2025-10-02 This volume is the first in depth collection to explore the impact of language on the field of comparative constitutional law It addresses the epistemological and conceptual implications of English as the lingua franca In this regard it considers the global influence of Anglophone jurisdictions in orienting the discourse through the identification of concepts designs and ideas that warrant engagement and exploration outside of those origin jurisdictions In doing so the book underscores that language is not a neutral device but can produce hegemonic pressures and expectations

It further makes the role of language in conducting comparative constitutional law explicit so that its users can be more deliberate in their selection of foreign materials and are made conscious of the limitations of their findings due to language barriers. The book calls for a reckoning with the rich constitutional vocabulary that non Anglophone jurisdictions have to offer to ensure a more holistic approach to the creation of knowledge. It also emphasises the need for the contextualised study of constitutional phenomena to appreciate how these are shaped by linguistic choices. In addition to raising awareness about language's significance as an epistemological, conceptual and methodological device, the volume also puts forward constructive tools and techniques to harness language's potential, making it an indispensable resource for scholars, students, lawmakers and judges.

The Public Administration Profession Bradley S. Chilton, Stephen M. King, Viviane E. Foyou, J. Scott McDonald, 2018-09-03. While many introductory public administration textbooks contain a dedicated chapter on ethics, *The Public Administration Profession* is the first to utilize ethics as a lens for understanding the discipline. Analyses of the ASPA Code of Ethics are deftly woven into each chapter alongside complete coverage of the institution's processes, concepts, persons, history and typologies, a student needs to gain a thorough grasp of public service as a field of study and practice. Features include: A significant focus on public interests, nonprofit management, hybrid private organizations, contracting out and collaborations, and public service at state and local levels. A careful examination of the role that religion may play in public servants' decision making, as well as the unignorable and growing role that faith-based organizations play in public administration and nonprofit management at large. End of chapter ethics case studies, key concepts and persons, and dedicated local community action steps in each chapter. Appendices dedicated to future public administration and nonprofit career management, writing successful papers throughout a student's career, and professional codes of ethics. A comprehensive suite of online supplements including lecture slides, quizzes and sample examinations for undergraduate and graduate courses containing multiple choice, true/false, identifications and essay questions, chapter outlines with suggestions for classroom discussion and suggestions for use of appendices, e.g. how to successfully write a short term paper, a brief policy memo, resume or a book review. Providing students with a comprehensive introduction to the subject while offering instructors an elegant new way to bring ethics prominently into the curriculum. *The Public Administration Profession* is an ideal introductory text for public administration and public affairs courses at the undergraduate or graduate level.

American Constitutional Law Donald P. Kommers, John E. Finn, Gary J. Jacobsohn, 2010. *American Constitutional Law: Essays, Cases and Comparative Notes* is a unique casebook that encourages students and citizens of the Constitution to think critically about the fundamental principles and policies of the American constitutional order. The book has two prominent features that distinguish it from other books in the field: an emphasis on the social, political and moral theory that provides meaning to constitutional law and interpretation, and a comparative perspective that situates the American experience within a world context that serves as an invaluable prism through which to illuminate the special features of our own constitutional

order While the focus of the book is entirely on American constitutional law the book asks students to consider what if anything is unique in American constitutional life and what we share with other constitutional democracies Each chapter is preceded by an introductory essay that highlights these major themes and also situates the cases in their proper historical and political context For students in the liberal arts as well as law students seeking a richer encounter with the multifaceted nature of the American constitutional experience this book addresses all of their concerns The new edition offers Updated and expanded treatment of key cases on gerrymandering and campaign finance Expanded discussion of the Court s work federalism and the commerce clause Discussions of the Court s new cases on the death penalty including a discussion of the controversy within the Court about the propriety of citing foreign case law An expanded discussion of the Court s recent work in the area of privacy including the Court s decisions with regard to partial birth abortions and same sex marriages An expanded section on the Court s continuing efforts to develop a coherent takings clause jurisprudence Full coverage of new developments and cases concerning affirmative action and school desegregation

Dispatches from the Front Stanley Hauerwas,1995 God knows it is hard to make God boring Stanley Hauerwas writes but American Christians aided and abetted by theologians have accomplished that feat Whatever might be said about Hauerwas and there is plenty no one has ever accused him of being boring and in this book he delivers another jolt to all those who think that Christian theology is a matter of indifference to our secular society At once Christian theology and social criticism this book aims to show that the two cannot be separated In this spirit Hauerwas mounts a forceful attack on current sentimentalities about the significance of democracy the importance of the family and compassion which appears here as a literally fatal virtue In this time of the decline of religious knowledge when knowing a little about a religion tends to do more harm than good Hauerwas offers direction to those who would make Christian discourse both useful and truthful Animated by a deep commitment his essays exhibit the difference that Christian theology can make in the shaping of lives and the world

Jewish Law and American Law, Volume 1 Samuel J. Levine,2021-02-16 This volume contributes to the growing field of comparative Jewish and American law presenting twenty six essays characterized by a number of distinct features The essays will appeal to legal scholars and at the same time will be accessible and of interest to a more general audience of intellectually curious readers These contributions are faithful to Jewish law on its own terms while applying comparative methods to offer fresh perspectives on complex issues in the Jewish legal system Through careful comparative analysis the essays also turn to Jewish law to provide insights into substantive and conceptual areas of the American legal system particularly areas of American law that are complex controversial and unsettled

Reception Theory and Biblical Hermeneutics David Paul Parris,2009-01-01 Traditional methods employed in biblical interpretation involve a two way dialogue between the text and the reader Reception theory expands this into a three way dialogue with the third partner being the history of the text s interpretation and application Most contemporary biblical interpreters have ignored this third partner although recently the

need to include the history of interpretation has gained some attention This book explores the hermeneutical resources that reception theory provides for engaging the history of biblical interpretation as a third dialogue partner in biblical hermeneutics The first third of this work explores the philosophical background and hermeneutical framework that Hans Georg Gadamer provides for reception theory The center of this study examines how this hermeneutical approach is fleshed out by Hans Robert Jauss Jauss not only builds upon Gadamer's work but his literary hermeneutic provides a model applicable to the biblical text and its tradition of interpretation The focus for the final third of the book shifts toward three studies that seek to demonstrate the applicability of various aspects of reception theory to biblical interpretation

Integrity and Conscience Ian Shapiro, Robert Adams, 1998-04-01 Can individuals believe that they are acting with integrity yet in disobedience to the dictates of their conscience Can they retain fidelity to their conscience while ignoring a sense of what integrity requires Integrity and conscience are often thought to be closely related perhaps even different aspects of a single impulse This timely book supports a different and more complicated view Acting with integrity and obeying one's conscience might be mutually reinforcing in some settings but in others they can live in varying degrees of mutual tension Bringing together prominent scholars of legal theory and political philosophy the volume addresses both classic ruminations on integrity and conscience by Plato Hume and Kant as well as more contemporary examinations of professional ethics and the complex relations among politics law and personal morality

Uncovering the Constitution's Moral Design Paul R. DeHart, 2007 The U S Constitution provides a framework for our laws but what does it have to say about morality Paul DeHart ferrets out that document's implicit moral assumptions as he revisits the notion that constitutions are more than merely practical institutional arrangements In *Uncovering the Constitution's Moral Design* he seeks to reveal elaborate and then evaluate the Constitution's normative framework to determine whether it is philosophically sound and whether it makes moral assumptions that correspond to reality Rejecting the standard approach of the intellectual historian DeHart for the first time in constitutional theory applies the method of inference to the best explanation to ascertaining our Constitution's moral meaning He distinguishes the Constitution's intention from the subjective intentions of the framers teasing out presuppositions that the document makes about the nature of sovereignty the common good natural law and natural rights He then argues that the Constitution constrains popular sovereignty in a way that entails a real common good transcendent of human willing and promotive of human well being but he points out that while the Constitution presupposes a real common good it also implies a natural law that prescribes the common good In critiquing previous attempts at describing and evaluating the Constitution's normative framework DeHart demonstrates that the Constitution's moral framework corresponds largely to classical moral theory He challenges the logical coherency of modern moral philosophy normative positivism and other theories that the Constitution has been argued to embody and offers a groundbreaking methodology that can be applied to uncovering the normative framework of other constitutions as well This cogently argued

study shows that the Constitution presupposes a natural law to which human law must conform and it takes a major step in resolving current debates over the Constitution's normative framework while remaining detached from the social issues that divide today's political arena *Uncovering the Constitution's Moral Design* is an original approach to the Constitution that marks a significant contribution to understanding the moral underpinnings of our form of government *Feminist Legal Theories* Karen Maschke, 2013-09-13 Multidisciplinary focus Surveying many disciplines this anthology brings together an outstanding selection of scholarly articles that examine the profound impact of law on the lives of women in the United States The themes addressed include the historical political and social contexts of legal issues that have affected women's struggles to obtain equal treatment under the law The articles are drawn from journals in law political science history women's studies philosophy and education and represent some of the most interesting writing on the subject The law in theory and practice Many of the articles bring race social and economic factors into their analyses observing for example that black women poor women and single mothers are treated by the wielders of the power of the law differently than middle class white women Other topics covered include the evolution of women's legal status reproduction rights sexuality and family issues equal employment and educational opportunities domestic violence pornography and sexual exploitation hate speech and feminist legal thought A valuable research and classroom aid this series provides in depth coverage of specific legal issues and takes into account the major legal changes and policies that have had an impact on the lives of American women *American Religious Democracy* Bruce Ledewitz, 2007-03-30 The most significant public religious issue confronting America today is the relationship between Church and State Secular opinion holds that the rise of religion in the public square is a threat to our democracy that must be resisted American Religious Democracy argues that this position although understandable is misguided American political life after the 2004 Presidential election is best understood as a religious democracy though not of a fundamentalist variety This book explains the decline of secular democracy describes some of the legal political and religious implications of this new religious democracy and finally invites secular voters to participate in religious democracy The 2004 election clearly showed that a substantial number of voters in America now vote the way they do for what they consider to be religious reasons and that as a result of their voting government policy is changing to reflect their religious commitments The result has been the creation of a religious democracy However taking part in a religious democracy for Americans especially requires a new understanding of what religion means in a public and political sense Ledewitz takes a reasoned yet lively approach to the subject promoting a new understanding of what religious democracy is and how secularists can and should participate Looking at the Constitution the current nature of politics and religion and public attitudes toward capitalism the environment technology women's rights and international relations the author is able to construct a clearer picture of the religious and political landscape in America today *The Church as Polis* Arne Rasmusson, 2025-02-15 Political theology is one of the most influential theological movements of the latter part of the

twentieth century and yet as Arne Rasmusson argues here the field suffers from deep inherent tensions in its attempt to mediate the Christian tradition and the modern emancipatory tradition Rasmusson contributes to political theology through an innovative discussion of the relationship between church and society and an exposition of the thought and work of political theology's influential representative Jürgen Moltmann Rasmusson further refines his argument by filtering Moltmann's theology through an exploration of Stanley Hauerwas's theological positions

The Oxford Handbook of Church and State in the United States Derek H. Davis, 2010-10-19

Study of church and state in the United States is incredibly complex. Scholars working in this area have backgrounds in law, religious studies, history, theology, and politics among other fields. Historically, they have focused on particular angles or dimensions of the church-state relationship because the field is so vast. The results have mostly been monographs that focus only on narrow cross-sections of the field and the few works that do aim to give larger perspectives are reference works of factual compendia which offer little or no analysis. The Oxford Handbook of Church and State in the United States fills this gap, presenting an extensive multidimensional overview of the field. Twenty-one essays offer a scholarly look at the intricacies and past and current debates that frame the American system of church and state within five main areas: history, law, theology, philosophy, politics, and sociology. These essays provide factual accounts but also address issues, problems, debates, controversies, and where appropriate, suggest resolutions. They also offer analysis of the range of interpretations of the subject offered by various American scholars. This Handbook is an invaluable resource for the study of church-state relations in the United States.

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